

# ***The Relationship of “Both-at-Fault” to No-Fault Divorce***

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2008

The subjects of marriage, divorce, and remarriage are misinterpreted and thus mishandled by many of today’s fundamental and evangelical churches. Much of the problem is due to the errant legacies received from various branches of Christendom, who also err<sup>1</sup>. There is a sad and tragic irony to the fact that those in the Church who hold to the position of *no divorce for any reason and remarriage only upon death of a spouse* contribute, in part, to today’s pervasive culture of failed marriages and divorce. To understand this dynamic, please read further.

The concept of *covenant* marriage is deeply embedded in both the Old Testament and Synoptic Gospels, but is less referenced in the New Testament epistles. Relying heavily upon newer canonical revelations, the early Church lost touch in the first century with the Jewish understanding of *covenant* marriage and divorce. The destruction of Jerusalem in 70 AD largely confined the facts of the matter to antiquity<sup>2</sup>.

With reliance upon particular statements made by the Apostle Paul in his Epistles<sup>3</sup>, Church teachings came to espouse a more *mystical union* view of marriage, drawing heavily from Paul’s analogous teachings regarding the relationship of Christ to His Church. The union of Christ to His Church became the all-encompassing model for marriage. Consequently, Christian marriage was assumed to include the attribute of *non-severability* that exists between Christ and His Heavenly Bride.

Further, without the framework and understanding of covenant marriage, the possibility for a legal breach to the marriage relationship was precluded. While evangelicals affirmed the truth that marriage was only an earthly institution, divorce was deemed to be a violation of an eternal principle. Therefore, both husband and wife were seen as more-or-less equally culpable for any divorce--a “both-at-fault” divorce.

Without the concept of severability, Christian spouses are forced by Church teachings to forebear the serious sins of adultery, sexual perversion, or even abandonment by one’s spouse—all at odds with the words of both Jesus Christ and the Apostle Paul. Further, “both-at-fault” divorce allows Church leaders to dismiss related issues of justice and accountability. The difficulties of receiving testimony and judging are avoided under the “equally culpable” framework. With “both-at-fault” divorce, Church discipline takes the misguided path of relegating divorcees to a spiritual under-class. In the case of remarriage prior to death of one’s spouse, that marriage is deemed “sexually immoral,” the parties being disassociated from fellowship (1 Cor. 5:9-11) with varying degrees of formality.

Those familiar with Paul’s epistle to the Corinthians will recognize a similar leadership failure in Chapter 5. There, the leaders also abdicated their responsibility to judge a matter. Because evil was tolerated and the issue of justice ignored, Paul wrote:

*What business is it of mine to judge those outside the church? Are you not to judge those inside? God will judge those outside. “Expel the wicked man from among you.” (vs. 12, 13)*

The Apostle Paul clearly shows that genuine Christian leaders have a delegated, jurisdictional responsibility to judge moral issues within the Church. Breaches to the covenant bonds of marriage cannot be exempted from the realm of accountability. Though marriage partners are called to loving forbearance, integrity is not maintained in any relationship when an offending party is not held responsible for their injury to their spouse or when an innocent party is held to be equally responsible for the failure. Mercy is to be exercised toward the contrite, but God himself has modeled over and over that the unrepentant do not receive mercy.

Further, justice to “those outside” is to be implemented through the jurisdictional power of Gentile government (Romans 13:1-7), which is expected to acknowledge the transcendent moral authority of God.

Since the carnal Church relinquished its responsibility and set a bad example, the issues of marital injustice were thrust upon the civil court system. Understandably, the secular courts were even less equipped ethically to deal with these matters. Without the Church’s moral leadership, attorneys and courts took “both-at-fault” divorce to the next step, and pragmatically created “no-fault” divorce. Both-at-fault and no-fault divorce share in common the suspension of moral accountability, judgment, and disciplinary consequences, as well as equity for the violated party.

Idealistically speaking, if the Church were to take the Apostle Paul’s admonishment seriously and judged “righteously” (John 7:24), then civil courts would have a pattern to observe and follow. Subsequently, both religious and non-religious citizenry would think long and hard about the consequences of their actions if equity and justice were restored to divorce proceedings. The reestablishment of the Jewish *covenant* understanding of marriage, divorce, and remarriage would help facilitate the restoration of moral integrity to the institution of marriage and family.



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<sup>1</sup> Instone-Brewer, David. “History of Divorce, Interpretations in Church History,” *Divorce and Remarriage in the Bible: The Social and Literary Context*, Grand Rapids: Eerdmans Publishing, 2002.

<sup>2</sup> Ibid.

<sup>3</sup> The most widely misinterpreted verses are Romans 7:1-4 and 1 Corinthians 7:39. Romans reads:

*1 Or do you not know, brethren (for I speak to those who know the law), that the law has dominion over a man as long as he lives?*

*2 For the woman who has a husband is bound by the law to [her] husband as long as he lives. But if the husband dies, she is released from the law of [her] husband.*

*3 So then if, while [her] husband lives, she marries another man, she will be called an adulteress; but if her husband dies, she is free from that law, so that she is no adulteress, though she has married another man.*

*4 Therefore, my brethren, you also have become dead to the law through the body of Christ, that you may be married to another -- to Him who was raised from the dead, that we should bear fruit to God.*

It is important to keep in mind that while the Apostle Paul references marriage in these verses, his subject is not marriage but the believer's severed relationship to the *principle of law* through

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identification with Christ's death, burial, and resurrection (our basis for sanctification). The failure of modern-day believers to comprehend the truths contained in Romans Chapters 6, 7, and 8 is, in part, their unfamiliarity with 1) the institution of slavery as practiced in the ancient world, and 2) both ancient Jewish and Roman law as it pertained to marriage, divorce, and remarriage.

Pastor Eric Peterman provides additional insight.

Paul is writing specifically to citizens of Rome (Romans 1:7), and when he says, "*I speak to those who know the law*" he is referencing the legal sensibilities and pride of the greatest legal civilization on earth—Rome. It is from Rome which we derive many of our judicial principles and even our public building styles. For them, he is likely not referencing the Mosaic (Jewish) Law, but rather the great principles and unifying identity that made Rome superior over all. All Roman citizens, regardless of clan, tribe or former nationality, were united under a common legal jurisdiction, including even laws of marriage.

The Roman law maintained jurisdiction over its citizens, including over marriage contracts, until they were separated from it by death. It is not Paul's intention to teach them anything about divorce (which under Roman law was accomplished merely by walking out of the relationship) or remarriage (which under Roman law was virtually required and expected), nor is he fleshing out the Mosaic Law as it applies to marriage. He is simply drawing on their appreciation of the nature of Roman law to highlight a characteristic of all law: one is severed from its jurisdiction by death.

Paul is using one truth about marriage to drive home a deep theological point previously set forth in Romans 6. He is not teaching that death is the exclusive condition which dissolves a marriage covenant. Only by ignoring what both the remainder of the Bible and history have to say about marriage, can one hold the erroneous assumption that death is the only condition which dissolves marriage, and the corollary that all who remarry without the death of a spouse are adulterers. This mishandling of the text has caused serious and far-reaching harm to the Church.

The spiritual-theological point being analogized by Paul in verses 2 and 3 is clearly stated in verse 4. Our new position in the Body of Christ, through identification in Christ's death, burial, and resurrection, and instrumentality of spiritual baptism, severs our prior relationship (in the First Adam) to the realm of the law to effect sanctification. Through the new birth and our identification with Christ, we are now joined to Him--the Source of our new life. This "rule" is according to God's principle of the New Creation (Gal. 6:15,16).

*And so it is written, "The first man Adam became a living being." The last Adam [became] a life-giving spirit. 1 Cor. 15:45.*

Since the books to the Corinthian believers follow the book to the Romans, the erroneous assumption and misinterpretation is carried over. 1 Corinthians 7: 39 reads,

*A wife is bound by law as long as her husband lives; but if her husband dies, she is at liberty to be married to whom she wishes, only in the Lord.*

Here, Paul is in fact speaking about marriage. He simply states that death is one condition which severs the marriage bond. Covenant and bond are synonymous. Again, only by reading the verse in isolation from the rest of the Bible, can one support the notion that only death severs the marriage bond.

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The belief in *no divorce for any reason and remarriage only upon death of a spouse* is problematic when one evaluates all the biblical references to marriage, divorce, and remarriage. The flawed logic connected with this view often produces ethical outcomes which are both cruel and bizarre, as well as contradict the revealed heart of God regarding marital harmony.

*But if the unbeliever leaves, let him do so. A believing man or woman is not bound in such circumstances; God has called us to live in peace. 1 Cor. 7:15.*